

TITLE 16. Board of Optometry

NOTICE IS HEREBY GIVEN that the Board of Optometry is proposing to take the action described in the Informative Digest. Any person interested may present statements or arguments orally or in writing relevant to the action proposed at a hearing to be held at 400 R Street, Suite 4090, Sacramento, California, at 10:30 AM, November 19, 2003. Written comments, including those sent by mail, facsimile, or e-mail to the addresses listed under Contact Person in this Notice, must be received by the Board of Optometry at its office not later than 5:00 p.m. on November 17, 2003 or must be received by the Board of Optometry at the hearing. The Board of Optometry, upon its own motion or at the instance of any interested party, may thereafter adopt the proposals substantially as described below or may modify such proposals if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified proposal will be available for 15 days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written or oral testimony related to this proposal or who have requested notification of any changes to the proposal.

Authority and Reference: Pursuant to the authority vested by sections 3025, 3025.5, and 3090 of the Business and Professions Code, and to implement, interpret or make specific sections 3025, 3025.5 and 3090 of said Code, and 16 Code of Federal Regulations 456.1 and 456.2, the Board of Optometry is considering changes to Division 15 of Title 16 of the California Code of Regulations as follows: Amendment to sections 1566 and 1566.1, Consumer Notice RE: Prescription Release.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

- (1) Section 1566: Assembly Bill (AB) 2020 (Correa, Chapter 814, Statutes 2002) revised the law by requiring optometrists to release patient's contact lens prescriptions. This proposal will revise an existing consumer notice to reflect this prescription release requirement.
- (2) Section 1566.1: Present Section language lists Board contact information on an existing consumer notice that does not reflect the current office location. This proposal will update Board consumer contact information to reflect the current office location.

FISCAL IMPACT ESTIMATES

Fiscal Impact on Public Agencies Including Costs or Savings to State Agencies or Costs/Savings in Federal Funding to the State: None

Nondiscretionary Costs/Savings to Local Agencies: None.

Local Mandate: None.

Cost to Any Local Agency or School District for Which Government Code Section 17561 Requires Reimbursement: None.

Business Impact:

The Board has made an initial determination that the proposed regulatory action would have no significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

AND

The following studies/relevant data were relied upon in making the above determination: These proposed regulation amendments only pertain to the providing updated consumer rights and Board contact information on an existing notice.

Impact on Jobs/New Businesses:

The Board of Optometry has determined that this regulatory proposal will not have any significant impact on the creation of jobs or new businesses or the elimination of jobs or existing businesses or the expansion of businesses in the State of California.

Cost Impact on Representative Private Person or Business:

The Board of Optometry is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Effect on Housing Costs: None

EFFECT ON SMALL BUSINESS

The Board of Optometry has determined that the proposed regulations would not affect small businesses because the regulation amendments pertain to new consumer rights and updated Board information.

CONSIDERATION OF ALTERNATIVES

The Board of Optometry must determine that no reasonable alternative it considered to the regulation or that has otherwise been identified and brought to its attention would either be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposal described in this Notice.

Any interested person may present statements or arguments orally or in writing

relevant to the above determinations at the above-mentioned hearing.

INITIAL STATEMENT OF REASONS AND INFORMATION

The Board of Optometry has prepared an initial statement of the reasons for the proposed action and has available all the information upon which the proposal is based.

TEXT OF PROPOSAL

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained at the hearing or prior to the hearing upon request from the Board of Optometry at 400 R Street, Suite 4090, Sacramento, California 95814.

AVAILABILITY AND LOCATION OF THE FINAL STATEMENT OF REASONS AND RULEMAKING FILE

All the information upon which the proposed regulations are based is contained in the rulemaking file which is available for public inspection by contacting the person named below.

You may obtain a copy of the final statement of reasons once it has been prepared, by making a written request to the contact person named below or by accessing the website listed below.

CONTACT PERSON

Any inquiries or comments concerning the proposed rulemaking action may be addressed to:

Name:	Rex Farmer
Address:	400 R Street, Suite 4090 Sacramento, CA 95814
Telephone No.:	(916) 322-0961
Fax No.:	(916) 445-8711
E-Mail Address:	rex_farmer@dca.ca.gov

The backup contact person is:

Name:	Jane Flint
Address:	400 R Street, Suite 4090 Sacramento, CA 95814
Telephone No.:	(916) 323-8720
Fax No.:	(916) 445-8711
E-Mail Address:	jane_flint@dca.ca.gov

Website Access:

Materials regarding this proposal can be found at www.optometry.ca.gov

PROPOSED AMENDMENTS: CALIFORNIA CODE OF REGULATIONS
SECTIONS 1566 and 1566.1

Article 10. Prescriptions

1566. Release of Prescriptions: Notice Required.

At each office there shall be posted in a conspicuous place a notice which shall clearly state the legal requirements ~~and office policy~~ regarding the release of eyeglass and contact lens prescriptions and such notice shall at a minimum contain the following information:

~~Notice to Consumers Regarding Release of Prescriptions~~
IMPORTANT CONSUMER NOTICE

~~Federal~~ The law requires optometrists that a written copy of the spectacle to provide patients with eyeglass or contact lens prescriptions be given to the patient upon completion of an eye examination or, if necessary, contact lens fitting process. However, ~~the law does not require the release of a contact lens prescription; this is left to the discretion of the optometrists~~ may choose to withhold prescriptions for rigid, bitoric, and bifocal gas permeable contact lenses, as well as keratoconus or custom contact lenses not mass-produced. You may want to inquire about your doctor's policy regarding contact lens prescriptions prior to the examination Patients are encouraged to ask their treating optometrist about release of these prescriptions prior to examination.

Note: Authority cited: Sections 3025, 3025.5 and 3090 3025, 3025.5 and 3090, Business and Professions Code. Reference: Sections 2541.2, 2543, 2545, 2546.6, 3025, 3025.5 and 3090, Business and Professions Code; 16 Code of Federal Regulations 456.1 and 456.2.

1566.1. Consumer Information.

The ~~"Notice to Consumer Regarding Release of Prescriptions"~~ **"IMPORTANT CONSUMER NOTICE"** specified in Section 1566 shall also contain the following consumer information:

The practice of optometry in California is regulated by the Board of Optometry. The Board of Optometry receives and investigates all consumer complaints involving the practice of optometry. Complaints or grievances involving a California-licensed optometrist, should be directed to:

Board of Optometry
Department of Consumer Affairs
400 R Street, Suite ~~1070~~ **4090**
Sacramento, CA 95814-6200
~~TELEPHONE~~ **Phone: 1-800-547-4576 or (916) 323-8720**
Email: boardemail@dca.ca.gov
Internet: www.optometry.ca.gov

Note: Authority cited: Sections 3025, Business and Professions Code. Reference: Sections 3025.5, Business and Professions Code.

Important Consumer Notice

The Law requires optometrists to provide patients with eyeglass or contact lens prescriptions upon completion of an eye examination or, if necessary, contact lens-fitting process.

However, optometrists may choose to withhold prescriptions for rigid, bitoric, and bifocal gas permeable contact lenses, as well as keratoconus or custom contact lenses not mass-produced.

Patients are encouraged to ask their treating optometrist about the release of these prescriptions prior to examination.

The practice of optometry in California is regulated by the Board of Optometry, which receives and investigates all consumer complaints involving the practice of optometry.

Complaints or grievances involving a California-licensed optometrist should be directed to:

**Board of Optometry
Department of Consumer Affairs
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